

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

JD ANDERSON, COREY HARDIN, ERIC  
LEE, BRETT MESSIEH, DAVID  
MUHAMMAD, RANJITH THIAGARAJAN,  
CHASE WILLIAMS, and TOKEN FUND I  
LLC, individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

BINANCE, CHANGPENG ZHAO, YI HE,  
and ROGER WANG,

Defendants.

Case No. 1:20-cv-02803-ALC  
Honorable Andrew L. Carter, Jr.

**DECLARATION OF KYLE W. ROCHE**

I, Kyle W. Roche, declare as follows:

1. I am a partner of Roche Freedman LLP. I am admitted to the bar of the State of New York and admitted to practice before this Court and am in good standing.

2. I respectfully submit this declaration, based upon my personal knowledge, in opposition to Defendants' Motion to Dismiss the Second Amended Class Action Complaint (ECF No. 58).

3. Attached hereto are true and correct copies of the following documents:

Exhibit 1 Screenshot of Binance's registration page from Binance's website displaying the click box for a user to acknowledge that she has read and agreed to Binance's Terms of Service already pre-clicked to agree to acceptance of the Binance's Terms of Service.

Exhibit 2 A copy of the February 28, 2018 Forbes article titled "From Zero To Crypto Billionaire In Under A Year: Meet The Founder Of Binance" stating that "[t]oday, 38% of Binance's users are in the U.S."

Exhibit 3 Screenshot of March 7, 2019 Tweet showing Zhao (@cz\_binance), on his personal Twitter account, stating that "it is my duty to promote \$BNB. I owe it to our hodlers [*sic*]. And I like to interact with our \$BNB supporters."

- Exhibit 4                Screenshot of January 29, 2021 Tweet showing Zhao (@cz\_binance), on his personal Twitter account, stating that “[w]ithdrawals suspended again. System load issues. Funds are #safu. Should be fixed soon again.”
- Exhibit 5                Screenshot of January 29, 2021 Tweet showing Zhao (@cz\_binance) replying to his Tweet referenced in Ex. 4 and announcing to his followers that there is “[a]bout 10 min delay for withdrawals.”
- Exhibit 6                Screenshot of May 27, 2019 Tweet showing Zhao (@cz\_binance), on his personal Twitter account, informing his followers that Binance “[h]ad some system performance bottlenecks, trading saw some delays, fixed now. Withdrawals also saw some delays, fixed as well, but there is a backlog will take another 15 minute to drain.”

4.        If given the opportunity to conduct jurisdictional discovery on Defendant Changpeng Zhao’s (“Zhao”), Plaintiffs would continue their investigation to identify Zhao’s links to the United States in connection with his promotion, offer and sale of the ELF, EOS, FUN, ICX, KNC, LEND, OMG, QSP, and TRX tokens (together, the “Tokens”). Plaintiff would seek discovery showing sales and promotions performed in and directed to the United States by Zhao and the existence of Zhao’s control over Binance, including but not limited to Zhao’s decision to list specific tokens on Binance.

5.        Plaintiffs’ jurisdictional discovery from Zhao would include the below topics:
- a. Documents concerning the corporate form of Defendant Binance, which has not contested jurisdiction (*see* ECF No. 59, at 32–34), and its relationship with Zhao;
  - b. All copies of travel identification paperwork, such as passports, of Zhao;
  - c. All documents concerning any U.S. domestic real property owned or rented by Zhao;
  - d. Deposition testimony or interrogatory responses from Zhao regarding any work performed in the United States, including work performed in Defendants’ U.S. offices;

- e. Deposition testimony or interrogatory responses regarding Zhao's knowledge of the Token sales or usage of Binance within the U.S.;
- f. Deposition testimony or interrogatory responses regarding Zhao's knowledge of Binance's marketing efforts in the U.S.;
- g. Deposition testimony or interrogatory responses regarding Zhao's knowledge of website traffic from the United States specifically; and
- h. All communications with any Token issuer regarding Zhao's Binance's sales of such Tokens to U.S. users.
- i. Plaintiffs would also seek the following from third parties IP address information (in order to determine physical location) of specific lists of users on social media platforms (such as Twitter) who interacted with Zhao regarding withdrawal delays, technical difficulties, and/or purchasing and trading Tokens on Binance.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 19, 2021.



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